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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,561	07/31/2003	Jaime E. Garcia	JK01243	2593
28368 7590 04/14/2008 THE BLACK & DECKER CORPORATION 701 EAST JOPPA ROAD, TW199 TOWSON, MD 21286				
EXAMINER DENTER, CLARK F				
ART UNIT		PAPER NUMBER		
3724				
MAIL DATE		DELIVERY MODE		
04/14/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/632,561

**Applicant(s)**

GARCIA ET AL.

**Examiner**

Clark F. Dexter

**Art Unit**

3724

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-25 and 35-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-25 is/are allowed.
- 6) ☒ Claim(s) 35 and 36 is/are rejected.
- 7) ☒ Claim(s) 37-41 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. The response filed on December 26, 2007 has been entered.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsiung, pn 6,481,322.

Hsiung discloses a saw with almost every structural limitation of the claimed invention including:

a support surface with an aperture (e.g., 14) extending therethrough for supporting a workpiece;

a beveling cutting device (e.g., 11, 12) adjustably extending through the support surface aperture, said cutting device for cutting a workpiece, the cutting device being disposed in a plane and having a perimeter (e.g., the outer boundaries of 11, 12), the cutting device having a rotational axis within the perimeter of the cutting device, and a beveling axis substantially perpendicular to the rotational axis, whereby operation of the cutting device in the workpiece results in the formation of a kerf having a first and a second side in the workpiece;

a first optical emitting device (e.g., 3) adjustably coupled to the table saw and disposed above the support surface to project a first optical indicator substantially aligned with the plane;

wherein the first optical emitting device is configured so as to bevel with the cutting device, such that said first optical indicator is projected to substantially indicate a cutting path of the cutting device along the workpiece;

[claim 36] wherein the first optical emitting device adjustably coupled to the table saw (e.g., see Fig. 1) to project a first optical indicator substantially aligned with the first side of the kerf.

Hsiung lacks the cutting device having the rotational axis disposed below the support surface. However, such rotational support configurations are old and well known in the art and provide various well known benefits including a larger arc of rotation to provide the desired angle of attack and the desired cutting path through a

workpiece. Examples of such a rotational support configuration are present in a variety of configurations; for example, Blanckensee, Kleeb et al., Lewis, Else, and McEwan et al. each discloses such a configuration to provide various benefits including a configuration to accommodate an automatic actuation device for moving the saw through the cutting motion. Therefore, it would have been obvious to one having ordinary skill in the art to provide such a rotational support configuration on the saw of Hsiung to gain the well known benefits including those described above.

Further, it would have been an obvious matter of design choice to modify Hsiung by providing the rotational axis at, above or below the support surface since applicant has not disclosed that having the rotational axis at a specific location (i.e., below the support surface) solves any stated problem or is for any particular purpose, and it appears that the saw would perform equally well with the rotational axis disposed at any vertical location relative to the support surface.

***Allowable Subject Matter***

4. Claims 21-25 are allowable over the prior art of record.
5. Claims 37-41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments filed December 26, 2007 have been fully considered but they are not persuasive at least for the reasons previously presented.

In the paragraph bridging pages 1-2 of the subject amendment applicant argues that

"However, in all these references, the rotational axis of the blade are (a) disposed above the support surface, and (b) outside of the perimeter of the blade."

However, it is respectfully submitted that there is nothing in the claims that requires the rotational axis of the blade to have requirements (a) and (b) as described. Rather, requirements (a) and (b) as described are directed to the claimed beveling cutting device. Two rotational axes of Hsiung, one directed to the lowering and raising cutting motion of the cutting device and one directed to the beveling motion of the cutting device, are located adjacent the support surface but it is not clear whether they are located below the support surface. However, it is respectfully submitted that, contrary to applicant's assertion, the cited teaching references have corresponding axes that are clearly below the support surface and would suggest such a location for at least the reasons described in the prior art rejection.

Regarding applicant's arguments beginning in the fourth paragraph on page 2 of the subject amendment, applicant argues that

"Basically, Applicants are claiming a table saw."

However, it is respectfully submitted that given its broadest reasonable interpretation, the saw of Hsiung can be considered to be a table saw. Further, there is nothing in the claims that requires that the saw be of the same table saw configuration as that of the present invention, or that clearly distinguishes the claimed invention over the saws of Hsiung and the teaching references.

In the second paragraph on page 3 of the subject amendment, applicant argues that

"Furthermore, to take the miter saw configuration and convert it into a table saw, because such saw "would perform equally well" would violate the Federal Circuit precedent and the MPEP requirements."

It is respectfully submitted that the Examiner's rejection does not in any way contemplate converting or otherwise modifying the saw of Hsiung so that it is of the same table saw configuration as the present invention.

On pages 3-4 of the subject amendment, applicant arguments are directed to the orientation/position of the blade axis, and that one having ordinary skill in the art would not convert the saw of Hsiung into a table saw having the configuration of the present invention. However, as previously stated, it is respectfully submitted that (1) the argued orientation/position of the blade axis is not claimed, but rather the claims are directed to the rotational axis of the cutting device; and (2) there is nothing in the rejection that intends or implies that the saw of Hsiung should be converted as argued by applicant.

For at least these reasons, it is respectfully submitted that the prior art rejection must be maintained.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Clark F. Dexter/  
Primary Examiner, Art Unit 3724**

cfd  
April 10, 2008